

REMARKS / ARGUMENTS

Upon entry of this amendment, the claims pending are 7-10 and 12. Claim 7 has been amended to specify the ATCC Accession Number to the unmodified TALL-104 cells. Claim 10 has been amended in order to clarify the invention. These amendments were made to place the application in condition for allowance. Support for these amendments is found in the original specification and attached Declaration. No new matter is added by these amendments.

Rejection under 35 USC §112, first paragraph

The Examiner has rejected claims 7-10 and 12 under 35 USC §112, first paragraph, for failure to disclose the deposit provisions for the TALL-104 cell line, ATCC Accession No. CRL 11386.

As suggested by the Examiner and in an effort to place the application in condition for allowance, Applicants have enclosed a Declaration of Biological Culture Deposit and Certificate Under 37 CFR §3.73(b) ("Declaration"), duly executed on March 1, 2004 by the Director and CEO of The Wistar Institute of Anatomy and Biology. This Declaration affirms that TALL-104, ATCC Accession No. CRL 11386, was deposited on June 15, 1993.

In view of the enclosed Declaration, Applicants respectfully request withdrawal of this rejection.

Rejection under 35 USC §112, second paragraph

The Examiner has rejected claims 7-10 and 12 under 35 USC §112, second paragraph, as being indefinite in the recitation of "TALL-104 cells".

As suggested by the Examiner and in an effort to place the application in condition for allowance, Applicants have amended claim 7 to specify the ATCC Accession Number for the unmodified TALL-104 cells. Claims 8-10 and 12 properly

depend from claim 7 and therefore include this designation.

Applicants respectfully request withdrawal of this rejection based upon the above amendment.

In view of the above amendment and these remarks, Applicants respectfully request that Examiner withdraw the outstanding rejections and permit the above pending claims to pass to issue in due course.

The Director is hereby authorized to charge any deficiency in any fees due with the filing of this paper, or credit any overpayment in any fees, to our Deposit Account, Number 08-3040.

Respectfully submitted,

HOWSON AND HOWSON
Attorneys for Applicants

By Mary E. Bak
Mary E. Bak
Registration No. 31,215
Spring House Corporate Center
Box 457
Spring House, PA 19477



American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: (301)231-5320 Telex: 279-055 ATCCNORTH • FAX: 301-770-2547

The American Type Culture Collection (ATCC) has received your deposit of a culture in connection with the filing of an application for patent. The following information is provided to fulfill requirements.

Name and Address of Depositor:

The Wistar Institute of Anatomy and Biology
Attention: Daniela Santoli, Ph.D.
36th & Spruce Streets
Philadelphia, PA 19104-4268

Deposited on Behalf of:

The Wistar Institute of Anatomy and Biology

Date of Receipt of Culture by the ATCC:

June 15, 1993

Scientific Description

Depositor's Reference

ATCC Designation

Cell line

TALL-104

CRL 11386

The ATCC understands that:

1. The deposit of this culture does not grant to ATCC during the effective term of the patent anticipated a license, either expressed or implied, to infringe the patent, and our release of this culture to others does not grant them a license, either expressed or implied, to infringe the patent.
2. If this culture should die or be destroyed during the effective life of the patent, it shall be your responsibility to replace it with a living culture of the same organism. It is also your responsibility to supply sufficient quantity for distribution for the period of time specified.

The ATCC agrees that in consideration for a one-time service charge, not to distribute this culture or any information relating thereto or to its deposit until such time as a patent has been issued disclosing the above deposit except in accordance with U.S. Patent Office Rule of Practice, Rule 14, or until you authorize us to make this strain available. After a patent is issued and we are so informed, the culture will be made available for distribution to the public. The ATCC agrees to maintain the culture for a period of 30 years from deposit date, or until at least five years after the most recent request for a sample, whichever is longer.

We further agree that the name and address of every requester shall be communicated to the depositor.

The culture was tested and was viable on June 18, 1993.

Nonpayment of the service charge within 90 days of the deposit date relieves the ATCC from the above provisions.

American Type Culture Collection

By Bobbie A. Brandon
(Mrs.) Bobbie A. Brandon, Head
ATCC Patent Depository

Date: June 29, 1993

cc: Cerise Kerr
Mary E. Bak